

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                           |   |                      |
|---------------------------|---|----------------------|
| SANITEC INDUSTRIES, INC., | ) |                      |
|                           | ) |                      |
| Plaintiff,                | ) |                      |
|                           | ) |                      |
| v.                        | ) |                      |
|                           | ) | C.A. No. 04-1386 JJF |
| SANITEC WORLDWIDE, LTD.,  | ) |                      |
|                           | ) |                      |
| Defendants.               | ) |                      |

**DECLARATION OF JEFFREY J. WEINSTEN**

1. My name is Jeffrey J. Weinsten. I make this declaration in support of the response of Sanitec Worldwide, Ltd. ("Worldwide") to the motion of Sanitec Industries, Inc. ("Industries") to dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2). I am over twenty-one years of age and have personal knowledge of the facts stated herein.

2. I am the owner of a company called Salem Associates. In 2002, Salem Associates received a 49% interest in Worldwide. Salem Associates also had an option to obtain an additional 4% of Worldwide, which option it exercised in January, 2005, although the stock evidencing the exercise of that option was not issued until April, 2005. It is our position that Salem Associates controls Worldwide, and on that basis Mr. Finger was retained to represent Worldwide.

3. In litigation in California, Judge Dunn determined the issue of Windsor Holdings, but not, in our view, the ownership of Worldwide.

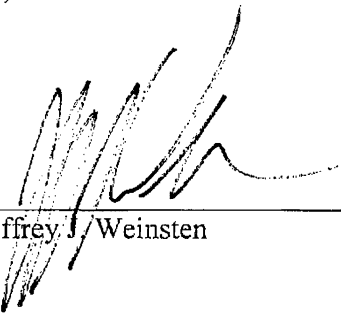
4. In October, 2005, Salem Associates gave James Harkess and Windsor Holdings notice of a shareholders meeting for Sanitec Worldwide. In response, Mr. Harkess sent a letter challenging Salem Associates' rights as majority shareholder, which letter was received after the scheduled shareholders meeting.

5. Because of that shareholders meeting, Mr. Harkess filed an action in California seeking to hold Mr. Smith and me in contempt for allegedly violating Judge Dunn's ruling. Trial is scheduled for May, 2006. We intend to defend based on our ownership rights as described above.

6. Because of the pendency of that hearing, this Court should not make any unnecessary findings in connection with Industries' motion to dismiss that could be used by Industries in the California contempt litigation.

7. I have been ill recently and have not been able to copy and send documents to Mr. Finger to attach to this response to support these claims. I asked Mr. Finger to ask opposing counsel to grant a brief extension of time (from March 16 to March 20) to allow me to recuperate and attend to copying and shipping the documents to Mr. Finger. On March 12, Mr. Finger sent an e-mail to plaintiff's counsel, requesting the extension. Mr. Oparil, on behalf of the plaintiff, granted the extension. However, the next day, after receiving a proposed stipulation from Mr. Finger, sent another e-mail stating that he had been "overly generous," and withdrawing his consent for an extension of time. Copies of those e-mails follow my declaration. As such, I offer this declaration without supporting documentation. In the event that the Court determines that it needs such documentation, I request a reasonable opportunity to provide it, in light of the lack of professional courtesy exhibited by plaintiff's counsel.

8. I declare under penalty of perjury of the laws of the United States that the foregoing is true to the best of my knowledge, information and belief. Executed on March 14, 2006 in North Salem, New York.



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Jeffrey Weinstein

**dfinger@delawgroup.com**

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**From:** "Oparil, Richard" <ROparil@PattonBoggs.com>  
**To:** <dfinger@delawgroup.com>  
**Cc:** <rkirk@bayardfirm.com>; "King, Jennifer" <JKing@PattonBoggs.com>; "Reece, Amy" <AReece@PattonBoggs.com>  
**Sent:** Tuesday, March 14, 2006 9:24 AM  
**Subject:** Industries

I was overly generous yesterday. We will not agree to any extension. The only proper and ethical response is for you to withdraw now. Period.

Richard J. Oparil  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037  
(202) 457-6496  
(202) 457-6315 fax  
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3/15/2006

**dfinger@delawgroup.com**

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**From:** "Oparil, Richard" <ROparil@PattonBoggs.com>  
**To:** <dfinger@delawgroup.com>  
**Cc:** <rkirk@bayardfirm.com>; "King, Jennifer" <JKing@PattonBoggs.com>; "Reece, Amy" <AReece@PattonBoggs.com>  
**Sent:** Monday, March 13, 2006 11:13 AM  
**Subject:** Re: Sanitec Industries, Inc. v. Sanitec Worldwide, Ltd.

No objection to March 20

Richard J. Oparil  
Patton Boggs LLP  
2550 M Street, NW  
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-----Original Message-----

From: [dfinger@delawgroup.com](mailto:dfinger@delawgroup.com)  
To: Oparil, Richard; Dick Kirk  
Sent: Mon Mar 13 11:03:16 2006  
Subject: Sanitec Industries, Inc. v. Sanitec Worldwide, Ltd.

Gentlemen:

I am writing to ask if you would be willing to stipulate to a short extension of time to respond to your motion for voluntary dismissal to Monday, March 20.

Thank you for your kind consideration of this request.

David L. Finger  
Finger & Slanina, LLC  
One Commerce Center  
1201 Orange St., Ste. 725  
Wilmington, DE 19801-1155  
Ph: (302) 884-6766  
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